

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

WILLIAM C. PIERCE,)	
)	
Plaintiff,)	8:06CV259
)	
v.)	
)	
DR. BAKER,)	MEMORANDUM AND ORDER
)	
Defendant.)	
)	

This matter is before the Court on the motion (Filing No. 6) for a voluntary dismissal of the above-entitled case. The plaintiff also requests a refund of the initial partial filing fee which he has paid in accordance with the Prisoner Payment Order granting his motion for leave to proceed in forma pauperis ("IFP").

As the plaintiff is a prisoner subject to the Prison Litigation Reform Act ("PLRA"), any filing fee installments paid by the plaintiff cannot be refunded. In addition, the PLRA does not permit the Court to stop the collection of filing fee installments before the entire filing fee is paid.

Thus, although a plaintiff may voluntarily dismiss an action at any time, if the plaintiff is a prisoner, funds must continue to be collected by the plaintiff's institution, when deposits are available in the plaintiff's inmate trust account,

until the entire \$250 fee has been paid.¹ The Court will grant the plaintiff a limited opportunity in which to reconsider whether he still wishes to dismiss this case. Accordingly,

IT IS ORDERED:

- 1) Plaintiff's request for refund of the initial partial filing fee he has paid is denied.
- 2) Plaintiff shall state, in writing, on or before April 21, 2006, whether he wishes to dismiss this action.

DATED this 31st day of March, 2006.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court

¹If a plaintiff is not a prisoner, and the Court grants in forma pauperis ("IFP") status, the plaintiff is relieved of the obligation for the filing fee. However, the same is not true for prisoners. The Prison Litigation Reform Act ("PLRA") makes a prisoner immediately liable for the entire filing fee upon the filing of a complaint or appeal (except habeas corpus petitions). See *In re Tyler*, 110 F.3d 528, 529-30 (8th Cir. 1997). If a prisoner is permitted to proceed IFP, he or she remains liable for the full filing fee, but the fee is collected in installments under a formula established by Congress. See 28 U.S.C. § 1915(b).